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217218US-2PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF : :

DELAUNAY, MARC ET AL. : EXAMINER: SAVAGE, MATTHEW O.

SERIAL NO: 10/019,278 : :

FILED: JANUARY 2, 2002 : GROUP ART UNIT: 1723

FOR: PROCESS AND DEVICE FOR DEPOSITING, BY ELECTRON CYCLOTRON
RESONANCE PLASMA, ...

*#6/13M
6/7/03*

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

SIR:

In response to the Restriction Requirement dated May 22, 2003, Applicants elect with traverse Group I, Claims 27-40, drawn to a process. Applicants make this election based on the understanding that Applicants are not prejudiced against filing one or more divisional applications that cover the non-elected claims.

In addition to making this election, Applicants respectfully traverse this Restriction Requirement. The outstanding Official Action indicates that a special technical feature is shared between the indicated Groups and then concludes in consideration of this special feature alone that this feature alone provides no contribution over the prior art. Yet, PCT Rule 13.2 indicates that "special technical features" mean those technical features that define a contribution which each of the claimed inventions, *considered as a whole*, makes over the prior art. There is no consideration in the outstanding Official Action as to the contribution to which the special technical feature in each of the claimed inventions makes over the prior art when considered as a whole. Thus, there is no basis upon which to conclude that the

identified special technical feature in each of the claimed inventions, *when considered as a whole*, does not make a contribution over the prior art. Hence, there is no basis for restricting these Groups.

In addition, Applicants elect with traverse the filter species cited in the outstanding Official Action, and identify Claims 50, 53, and 54 as readable on the filter species. Applicants respectfully traverse the election of species requirement.

The outstanding Official Action restates, with regard to the election of species requirement, that the “shared technical feature of the webs of carbon nanofibers being free of any catalysts” does not provide a contribution over the art.” Yet, as indicated above, the outstanding Official Action provides no basis upon which to conclude that this special technical feature in each of the claimed inventions, *when considered as a whole*, does not make a contribution over the prior art.

Accordingly, it is respectfully requested that the requirement to elect a single group and that the election of single species be withdrawn, and that a full examination on the merits of Claims 27-56 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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